

By: Parker

H.B. No. 2338

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of restrictive covenants regarding solar panels.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 202.010(d) and (e), Property Code, are amended to read as follows:

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association;

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or

(B) in a fenced yard or patio owned and maintained by the property owner;

(5) if mounted on the roof of the home:

(A) extends higher than or beyond the roofline;

1 (B) is located in an area other than an area
2 designated by the property owners' association, unless the
3 alternate location increases the estimated annual energy
4 production of the device, as determined by using a publicly
5 available modeling tool provided by the National Renewable Energy
6 Laboratory, by more than 10 percent above the energy production of
7 the device if located in an area designated by the property owners'
8 association and an additional device is not installed in the
9 designated area;

10 (C) does not conform to the slope of the roof and
11 has a top edge that is not parallel to the roofline; [~~or~~]

12 (D) has a frame, a support bracket, or visible
13 piping or wiring that is not in a silver, bronze, or black tone
14 commonly available in the marketplace;

15 (E) is directly visible from the street in front
16 of the property;

17 (F) weighs more than the roof can support as
18 determined by a building inspector; or

19 (G) covers more than 50 percent of the roof
20 surface;

21 (6) if located in a fenced yard or patio, is taller
22 than the fence line or is otherwise not reasonably concealed from
23 the public's view by a privacy fence;

24 (7) as installed, voids material warranties; [~~or~~]

25 (8) was installed without prior approval by the
26 property owners' association or by a committee created in a
27 dedicatory instrument for such purposes that provides decisions

1 within a reasonable period or within a period specified in the
2 dedicatory instrument;

3 (9) generates more electricity than necessary for the
4 residence; or

5 (10) impacts the electric service of neighboring
6 properties by interfering with the service or creating voltage
7 spikes.

8 (e) A property owners' association or the association's
9 architectural review committee may not withhold approval for
10 installation of a solar energy device if the provisions of the
11 dedicatory instruments to the extent authorized by Subsection (d)
12 are met or exceeded, unless the association or committee, as
13 applicable, determines in writing that placement of the device as
14 proposed by the property owner constitutes a condition that
15 substantially interferes with the use and enjoyment of land by
16 causing unreasonable discomfort or annoyance to persons of ordinary
17 sensibilities. The association or committee shall request written
18 comments regarding the placement of the device from the property
19 owners of property in the subdivision that is located not more than
20 50 yards from the lot line of the property of the property owner
21 requesting the approval. For purposes of making a determination
22 under this subsection, the written approval of the proposed
23 placement of the device by a majority of the nearby ~~all~~ property
24 owners ~~[of adjoining property]~~ constitutes prima facie evidence
25 that such a condition does not exist, and written disapproval of the
26 proposed placement by a majority of the nearby property owners
27 constitutes prima facie evidence that such a condition does exist.

1 SECTION 2. This Act takes effect September 1, 2013.